

(3) Any dog or cat suffering from disease, emaciation, or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section; and

(4) Any live dog or cat, 120 days of age or less, that was obtained from the person that bred and raised such dog or cat, may be exempted from the 5-day holding requirement and may be disposed of by dealers or exhibitors after a minimum holding period of 24 hours, excluding time in transit. Each subsequent dealer or exhibitor must also hold each such dog or cat for a 24-hour period excluding time in transit.

(b) During the period in which any dog or cat is being held as required by this section, the dog or cat shall be unloaded from any means of conveyance in which it was received, for food, water, and rest, and shall be handled, cared for, and treated in accordance with the standards set forth in part 3, subpart A, of this subchapter and § 2.131.

§ 2.102 Holding facility.

(a) If any dealer or exhibitor obtains the prior approval of the APHIS, REAC Sector Supervisor, he may arrange to have another person hold animals for the required period provided for in paragraph (a) of § 2.101: *Provided, That:*

(1) The other person agrees in writing to comply with the regulations in part 2 and the standards in part 3 of this subchapter and to allow inspection of his premises by an APHIS official during business hours; and

(2) The animals remain under the total control and responsibility of the dealer or exhibitor.

(3) Approval will not be given for a dealer or exhibitor holding a license as set forth in § 2.1 to have animals held for purposes of this section by another licensed dealer or exhibitor. APHIS Form 7009/VS Form 18–9 shall be used for approval.

(b) If any intermediate handler obtains prior approval of the APHIS, REAC Sector Supervisor, it may arrange to have another person hold animals: *Provided, That:*

(1) The other person agrees in writing to comply with the regulations in part 2 and the standards in part 3 of this subchapter and to allow inspection of

the premises by an APHIS official during business hours; and

(2) The animals remain under the total control and responsibility of the research facility or intermediate handler.

[54 FR 36147, Aug. 31, 1989, as amended at 60 FR 13896, Mar. 15, 1995]

Subpart I—Miscellaneous

§ 2.125 Information as to business; furnishing of same by dealers, exhibitors, operators of auction sales, intermediate handlers, and carriers.

Each dealer, exhibitor, operator of an auction sale, intermediate handler, and carrier shall furnish to any APHIS official any information concerning the business of the dealer, exhibitor, operator of an auction sale, intermediate handler or carrier which the APHIS official may request in connection with the enforcement of the provisions of the Act, the regulations and the standards in this subchapter. The information shall be furnished within a reasonable time and as may be specified in the request for information.

§ 2.126 Access and inspection of records and property.

(a) Each dealer, exhibitor, intermediate handler, or carrier, shall, during business hours, allow APHIS officials:

(1) To enter its place of business;

(2) To examine records required to be kept by the Act and the regulations in this part;

(3) To make copies of the records;

(4) To inspect and photograph the facilities, property and animals, as the APHIS officials consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter; and

(5) To document, by the taking of photographs and other means, conditions and areas of noncompliance.

(b) The use of a room, table, or other facilities necessary for the proper examination of the records and inspection of the property or animals shall be extended to APHIS officials by the dealer, exhibitor, intermediate handler or carrier.

§ 2.127 Publication of names of persons subject to the provisions of this part.

APHIS will publish lists of persons licensed or registered in accordance with the provisions of this part in the FEDERAL REGISTER. The lists may be obtained upon request from the APHIS, REAC Sector Supervisor.

§ 2.128 Inspection for missing animals.

Each dealer, exhibitor, intermediate handler and carrier shall allow, upon request and during business hours, police or officers of other law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter his or her place of business to inspect animals and records for the purpose of seeking animals that are missing, under the following conditions:

(a) The police or other law officer shall furnish to the dealer, exhibitor, intermediate handler or carrier a written description of the missing animal and the name and address of its owner before making a search.

(b) The police or other law officer shall abide by all security measures required by the dealer, exhibitor, intermediate handler or carrier to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

§ 2.129 Confiscation and destruction of animals.

(a) If an animal being held by a dealer, exhibitor, intermediate handler, or by a carrier is found by an APHIS official to be suffering as a result of the failure of the dealer, exhibitor, intermediate handler, or carrier to comply with any provision of the regulations or the standards set forth in this subchapter, the APHIS official shall make a reasonable effort to notify the dealer, exhibitor, intermediate handler, or carrier of the condition of the animal(s) and request that the condition be corrected and that adequate care be given to alleviate the animal's suffering or distress, or that the animal(s) be destroyed by euthanasia. In the event that the dealer, exhibitor, intermediate

handler, or carrier refuses to comply with this request, the APHIS official may confiscate the animal(s) for care, treatment, or disposal as indicated in paragraph (b) of this section, if, in the opinion of the Administrator, the circumstances indicate the animal's health is in danger.

(b) In the event that the APHIS official is unable to locate or notify the dealer, exhibitor, intermediate handler, or carrier as required in this section, the APHIS official shall contact a local police or other law officer to accompany him to the premises and shall provide for adequate care when necessary to alleviate the animal's suffering. If in the opinion of the Administrator, the condition of the animal(s) cannot be corrected by this temporary care, the APHIS official shall confiscate the animals.

(c) Confiscated animals may be placed, by sale or donation, with other licensees or registrants which comply with the standards and regulations and can provide proper care, or they may be euthanized. The dealer, exhibitor, intermediate handler, or carrier from whom the animals were confiscated shall bear all costs incurred in performing the placement or euthanasia activities authorized by this section.

§ 2.130 Minimum age requirements.

No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, or shall be transported in commerce by any person, except to a registered research facility, unless such dog or cat is at least eight (8) weeks of age and has been weaned.

§ 2.131 Handling of animals.

(a)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.

(ii) Deprivation of food or water shall not be used to train, work, or otherwise handle animals; *Provided, however,* That the short-term withholding of

food or water from animals by exhibitors is allowed by these regulations as long as each of the animals affected receives its full dietary and nutrition requirements each day.

(b)(1) During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.

(2) Performing animals shall be allowed a rest period between performances at least equal to the time for one performance.

(3) Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.

(4) Drugs, such as tranquilizers, shall not be used to facilitate, allow, or provide for public handling of the animals.

(c)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

(2) A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.

(3) During public exhibition, dangerous animals such as lions, tigers, wolves, bears, or elephants must be under the direct control and supervision of a knowledgeable and experienced animal handler.

(4) If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

§ 2.132 Procurement of random source dogs and cats, dealers.

(a) A class “B” dealer may obtain live random source dogs and cats only from:

(1) Other dealers who are licensed under the Act and in accordance with the regulations in part 2;

(2) State, county, or city owned and operated animal pounds or shelters; and

(3) A legal entity organized and operated under the laws of the State in which it is located as an animal pound

or shelter, such as a humane shelter or contract pound.

(b) A class “B” dealer shall not obtain live random source dogs and cats from individuals who have not bred and raised the dogs and cats on their own premises.

(c) Live nonrandom source dogs and cats may be obtained from persons who have bred and raised the dogs and cats on their own premises, such as hobby breeders.

(d) No person shall obtain live random source dogs or cats by use of false pretenses, misrepresentation, or deception.

(e) Any dealer, exhibitor, research facility, carrier, or intermediate handler who also operates a private or contract animal pound or shelter shall comply with the following:

(1) The animal pound or shelter shall be located on premises that are physically separated from the licensed or registered facility. The animal housing facility of the pound or shelter shall not be adjacent to the licensed or registered facility.

(2) Accurate and complete records shall be separately maintained by the licensee or registrant and by the pound or shelter. The records shall be in accordance with §§ 2.75 and 2.76, unless the animals are lost or stray. If the animals are lost or stray, the pound or shelter records shall provide:

(i) An accurate description of the animal;

(ii) How, where, from whom, and when the dog or cat was obtained;

(iii) How long the dog or cat was held by the pound or shelter before being transferred to the dealer; and

(iv) The date the dog or cat was transferred to the dealer.

(3) Any dealer who obtains or acquires a live random source dog or cat from a private or contract pound or shelter, including a pound or shelter he or she operates, shall hold the dog or cat for a period of at least 10 full days, not including the day of acquisition, excluding time in transit, after acquiring the animal, and otherwise in accordance with § 2.101.

§ 2.133 Certification for random source dogs and cats.

(a) Each of the entities listed in paragraphs (a)(1) through (a)(3) of this section that acquire any live dog or cat shall, before selling or providing the live dog or cat to a dealer, hold and care for the dog or cat for a period of not less than 5 full days after acquiring the animal, not including the date of acquisition and excluding time in transit. This holding period shall include at least one Saturday. The provisions of this paragraph apply to:

(1) Each pound or shelter owned and operated by a State, county, or city;

(2) Each private pound or shelter established for the purpose of caring for animals, such as a humane society, or other organization that is under contract with a State, county, or city, that operates as a pound or shelter, and that releases animals on a voluntary basis; and

(3) Each research facility licensed by USDA as a dealer.

(b) A dealer shall not sell, provide, or make available to any person a live random source dog or cat unless the dealer provides the recipient of the dog or cat with certification that contains the following information:

(1) The name, address, USDA license number, and signature of the dealer;

(2) The name, address, USDA license or registration number, if such number exists, and signature of the recipient of the dog or cat;

(3) A description of each dog or cat being sold, provided, or made available that shall include:

(i) The species and breed or type (for mixed breeds, estimate the two dominant breeds or types);

(ii) The sex;

(iii) The date of birth or, if unknown, then the approximate age;

(iv) The color and any distinctive markings; and

(v) The Official USDA-approved identification number of the animal. However, if the certification is attached to a certificate provided by a prior dealer which contains the required description, then only the official identification numbers are required;

(4) The name and address of the person, pound, or shelter from which the dog or cat was acquired by the dealer,

and an assurance that the person, pound, or shelter was notified that the cat or dog might be used for research or educational purposes;

(5) The date the dealer acquired the dog or cat from the person, pound, or shelter referred to in paragraph (b)(4) of this section; and

(6) If the dealer acquired the dog or cat from a pound or shelter, a signed statement by the pound or shelter that it met the requirements of paragraph (a) of this section. This statement must at least describe the animals by their official USDA identification numbers. It may be incorporated within the certification if the dealer makes the certification at the time that the animals are acquired from the pound or shelter or it may be made separately and attached to the certification later. If made separately, it must include the same information describing each animal as is required in the certification. A photocopy of the statement will be regarded as a duplicate original.

(c) The original certification required under paragraph (b) of this section shall accompany the shipment of a live dog or cat to be sold, provided, or otherwise made available by the dealer.

(d) A dealer who acquires a live dog or cat from another dealer must obtain from that dealer the certification required by paragraph (b) of this section and must attach that certification (including any previously attached certification) to the certification which he or she provides pursuant to paragraph (b) of this section (a photocopy of the original certification will be deemed a duplicate original if the dealer does not dispose of all of the dogs or cats in a single transaction).

(e) A dealer who completes, provides, or receives a certification required under paragraph (b) of this section shall keep, maintain, and make available for APHIS inspection a copy of the certification for at least 1 year following disposition.

(f) A research facility which acquires any live random source dog or cat from a dealer must obtain the certification required under paragraph (b) of this section and shall keep, maintain, and make available for APHIS inspection the original for at least 3 years following disposition.

(g) In instances where a research facility transfers ownership of a live random source dog or cat acquired from a dealer to another research facility, a copy of the certification required by paragraph (b) of this section must accompany the dog or cat transferred. The research facility to which the dog or cat is transferred shall keep, maintain, and make available for APHIS inspection the copy of the certification for at least 3 years following disposition.

[58 FR 39129, July 22, 1993]

PART 3—STANDARDS

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